

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Marvin E. Aspen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 1239	DATE	August 25, 2008
CASE TITLE	Larry Roberson (#2007-0056458) v. Dr. A. Dunlap		

DOCKET ENTRY TEXT:

Having recently received Defendant's Memorandum in Support of his Motion to Dismiss, the Court resets the briefing schedule for the motion to dismiss. Plaintiff shall have until September 19, 2008 to file a response. Defendant may file a reply by October 3, 2008. Ruling will be by mail. Plaintiff's Amended Complaint [30] is stricken without prejudice to him submitting a Second Amended Complaint in accordance with this order. The clerk shall mail an amended complaint form to Plaintiff. If Plaintiff files a Second Amended Complaint, he need not file a response to the motion to dismiss the original complaint.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

On July 22, 2008, Defendant Dr. A. Dunlap filed a motion to dismiss and a memorandum in support. The Court set a briefing schedule at that time. However, the memorandum in support submitted with the motion was entered in error and another memorandum was filed on August 19, 2008. Accordingly, the Court resets the briefing schedule. Although Plaintiff has filed a response to the motion (labeled as an "Answer"), he is given the opportunity to respond again in accordance with the schedule above. Plaintiff may resubmit his response or submit a new response that states the facts supporting his claim against Dr. Dunlap.

Additionally, Plaintiff has submitted an amended complaint. However, the amended complaint seeks to incorporate allegations asserted in the original complaint. Although Plaintiff may file an amended complaint, an amended complaint supersedes a previously filed complaint and must stand complete on its own. The Court does not refer to separate pleadings to determine the claims a plaintiff seeks to raise or the defendants to an action. Plaintiff must therefore include in his amended complaint all of the claims he seeks to raise and name all of the defendants he seeks to sue in this suit. Accordingly, the amended complaint currently before the Court is stricken without prejudice to Plaintiff submitting a Second Amended Complaint.

Because an amended complaint supersedes a previously filed complaint, a properly filed amended complaint would moot Defendant's motion to dismiss the original complaint. *See Johnson v. Dossey* 515 F.3d 778, 780 (7th Cir. 2008); *Crestview Village Apartments v. U.S. Dep't of Housing and Urban Dev.*, 383 F.3d 552, 557-58 (7th Cir. 2004). Accordingly, if Plaintiff files a Second Amended Complaint, particularly if submitted before the date his response is due (Sept. 19, 2008), he need not file a response to the motion to dismiss.

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